

CHJBAn w/under

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

**FILED BY**  
*Cas*

**SEP 20 2005**

AFTER HOURS DEPOSITORY  
Thomas M. Gould, Clerk  
U. S. District Court  
W. D. OF TN, Memphis

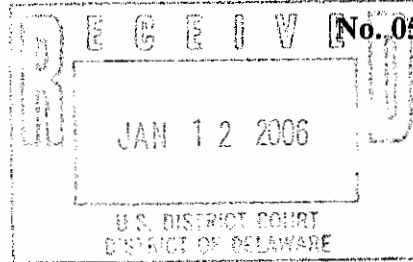
**CORY WILES, individually and on behalf  
of himself and all persons similarly situated,**

**Plaintiff,**

**v.**

**INTEL CORPORATION, a Delaware  
Corporation,**

**Defendant.**



**No. 05-2605 B/An**

**05 - 914**

**DEFENDANT INTEL CORPORATION'S MOTION TO STAY AND TRANSFER  
PLAINTIFF'S MOTION TO REMAND**

Defendant Intel Corporation ("Intel") respectfully moves this Court for an order staying consideration of Plaintiff's pending Motion to Remand (Docket No. 3) and transferring that Motion to the District that the Judicial Panel on Multidistrict Litigation ("JPML") selects to preside over *In re Intel Corp. Microprocessor Antitrust Litigation*, MDL 1717. Plaintiff opposes this motion. (See accompanying Certificate of Consultation). The grounds for this Motion are as follows:

1. Wiles commenced this action on July 15, 2005, in state court, and Intel timely removed the action to this court based on diversity jurisdiction pursuant to the recently enacted Class Action Fairness Act. Wiles moved to remand this action on September 2, 2005. Intel has filed its Opposition to that remand motion contemporaneously with this Motion.

2. Wiles asserts a purported claim under the Tennessee Antitrust Act ("TAA") Tenn. Code Ann. § 47-25-101 on behalf of an alleged class of Tennessee consumers. First

(10)

Amended Complaint at ¶ 13. His complaint is one of 69 putative class actions ("Related Actions") filed in multiple federal courts against Intel over the last two months, alleging essentially word for word facts and similar (federal and state) antitrust claims. At least 53 of the Related Actions also seek to assert TAA claims against Intel on behalf of the same alleged class of Tennessee consumers.

3. Wiles' case and the Related Actions are subject to a petition before the JPML to transfer and consolidate these actions pursuant to 28 U.S.C. § 1407. The proceeding has been entitled *In Re Intel Corp. Microprocessor Antitrust Litigation*, MDL 1717, and the JPML will hear arguments with respect to it on September 29, 2005, in Asheville, North Carolina. This Court has not been one of the venues suggested by the parties to be the MDL Court.

4. This Court has the inherent power to stay consideration of Wiles' remand motion. Further, the JPML has held that remand motions in particular can be presented to and decided by the transferee judge, and the general rule is to transfer remand motions to the MDL Court. Sister courts in this District have recognized and applied that general rule to stay and transfer remand motions at least twice in the past ten weeks in other MDL proceedings.

5. Application of this general rule is particularly appropriate here because Wiles' remand motion directly implicates facts and jurisdictional issues inextricably intertwined with the Related Actions. Specifically, Wiles' remand motion addresses the alleged aggregate value of the claims of an entire putative class of Tennessee consumers. The transferee Court in MDL 1717 will be in the best position to consider Wiles' remand motion arguments in light of the unlimited TAA damages claims that plaintiffs in the Related Actions make on behalf of the same Tennessee class.

6. The interests of fairness, consistency and conservation of judicial resources will all be served by deferring Wiles' remand motion to the court that will preside over all of the Related Actions.

Therefore, Intel respectfully request that this Court exercise its discretion and stay Wiles' remand motion and order the motion transferred with the case file to the MDL Court selected by the JPML. In support of this Motion, Intel relies on the accompanying Memorandum of Law, and the pleadings in this action.

Respectfully submitted,

BURCH, PORTER & JOHNSON, PLLC

DATED: September 20, 2005

  
Jeff Feibelman (#7677)  
130 North Court Avenue  
Memphis, TN 38103  
Telephone: 901.524.5000  
Facsimile: 901.524.5024  
jfeibelman@bpjlaw.com

and

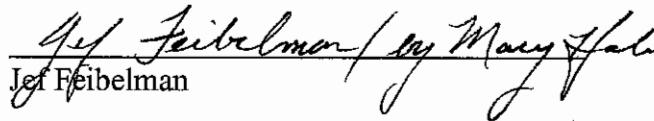
David M. Balabanian (CA# 37638)  
Christopher B. Hockett (CA# 121539)  
Joy K. Fuyuno (CA # 123890)  
BINGHAM McCUTCHEN LLP  
Three Embarcadero Center  
San Francisco, CA 94111-4067  
Telephone: 415.393.2000  
Facsimile: 415.393.2286

Richard A. Ripley (DC# 412959)  
BINGHAM McCUTCHEN LLP  
1120 20th Street, NW, Suite 800  
Washington, DC 20036  
Telephone: 202.778.6150  
Facsimile: 202.778.6155

Attorneys for Defendant  
INTEL CORPORATION

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail, postage prepaid, B.J. Wade, Esq., Glassman, Edwards, Wade & Wyatt, P.C., 26 North Second Street, Memphis, Tennessee, 38103, on this 20<sup>th</sup> day of September, 2005.

  
Jeff Feibelman

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

**CORY WILES, individually and on behalf  
of himself and all persons similarly situated,**

**Plaintiff,**

**v.**

**No. 05-2605 B/An**

**INTEL CORPORATION, a Delaware  
Corporation,**

**Defendant.**

---

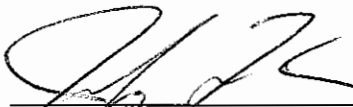
**CERTIFICATE OF CONSULTATION**

---

I, Jef Feibelman, counsel for the defendant, do hereby certify that defense counsel has consulted with William M. Audet, counsel for the plaintiff, and Mr. Audet has communicated that he opposes this motion.

Respectfully submitted,

BURCH, PORTER & JOHNSON,  
A Professional Limited Liability Company



Jef Feibelman (#7677)

Mary Hale (#21878)

130 North Court Avenue

Memphis, TN 38103

Telephone: 901.524.5000

Facsimile: 901.524.5024

[jfeibelman@bpjlaw.com](mailto:jfeibelman@bpjlaw.com)

and

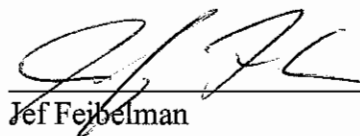
David M. Balabanian (CA# 37638)  
Christopher B. Hockett (CA# 121539)  
Joy K. Fuyuno (CA # 123890)  
BINGHAM McCUTCHEN LLP  
Three Embarcadero Center  
San Francisco, CA 94111-4067  
Telephone: 415.393.2000  
Facsimile: 415.393.2286

Richard A. Ripley (DC# 412959)  
BINGHAM McCUTCHEN LLP  
1120 20th Street, NW, Suite 800  
Washington, DC 20036  
Telephone: 202.778.6150  
Facsimile: 202.778.6155

Attorneys for Defendant  
INTEL CORPORATION

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail, postage prepaid, B.J. Wade, Esq., Glassman, Edwards, Wade & Wyatt, P.C., 26 North Second Street, Memphis, Tennessee, 38103, on this 20<sup>th</sup> day of September, 2005.

  
\_\_\_\_\_  
Jef Feibelman